

UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT
WASHINGTON, DC

2013 JUN 28 PM 4:54
LEEANN T. CLARK HALL
CLERK OF COURT

IN RE ORDERS ISSUED BY THIS COURT
INTERPRETING SECTION 215 OF THE
PATRIOT ACT

Docket No. Misc. 13-02

**MOTION OF U.S. REPRESENTATIVES AMASH, BROUN, GABBARD, GRIFFITH,
HOLT, JONES, LEE, LOFGREN, MASSIE, MCCLINTOCK, NORTON, O'ROURKE,
PEARCE, SALMON, SANFORD, AND YOHO FOR LEAVE TO FILE A BRIEF AS
AMICI CURIAE IN SUPPORT OF THE MOTION OF THE AMERICAN CIVIL
LIBERTIES UNION, THE AMERICAN CIVIL LIBERTIES UNION OF THE NATION'S
CAPITAL, AND THE MEDIA FREEDOM AND INFORMATION ACCESS CLINIC
FOR THE RELEASE OF COURT RECORDS**

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U.S. Representatives Justin Amash, Paul Broun, Tulsi Gabbard, Morgan Griffith, Rush Holt, Walter Jones, Barbara Lee, Zoe Lofgren, Thomas Massie, Tom McClintock, Eleanor Holmes Norton, Beto O'Rourke, Steve Pearce, Matt Salmon, Mark Sanford, and Ted Yoho¹ respectfully move for leave to file the accompanying brief as *amici curiae* in support of the Motion of the American Civil Liberties Union, the American Civil Liberties Union of the Nation's Capital, and the Media Freedom and Information Access Clinic for the Release of Court Records (the "Motion"), which was filed with this Court on June 10, 2013. The accompanying brief is addressed to the same subject as the Motion: to urge the Foreign Intelligence Surveillance Court ("FISC") to publish opinions—with classified information redacted—evaluating the meaning, scope, and constitutionality of Section 215 of the Patriot Act, 50 U.S.C. § 1861. *Amici curiae* have worked extensively on issues surrounding government oversight and transparency. Rep. Amash has succinctly captured the interest of *amici* as follows: "We accept that free countries must engage in secret operations from time to time to protect their citizens. Free countries must not, however, operate under secret laws. Secret court opinions obscure the law. They prevent public debate on critical policy issues and they stop Congress from fulfilling its duty to enact sound laws and fix broken ones."

The opinions sought in the Motion are essential to the proper functioning of the legislative branch of government and an informed public debate. They provide a critical gloss—namely, judicial interpretation and construction—on the laws governing the nation's surveillance practices. Without access to this information, Congress and the public cannot have a meaningful debate about how these laws operate in practice. The need for informed discussion in Congress regarding the implementation of surveillance laws is especially great now, as Congress is


¹ Brief biographies for each *amicus* appear in Appendix A to the accompanying brief.

evaluating ways to ensure government operations are more effective, to streamline the government's budget, and to protect Americans' civil liberties in an age of rapid technological expansion. As Congress considers whether to reauthorize one of the government's principal surveillance tools—Section 215 of the Patriot Act—in two years, it is crucial for Congress to fully understand how the law is being utilized and where it can be clarified or improved. Moreover, the importance of meaningful debate on this issue has grown as the American people have become increasingly suspicious of their government's surveillance activities. To enable an open dialogue on these issues between and within Congress and the public, *amici curiae* urge this Court to disclose the secret opinions sought in the Motion.

Counsel for both parties have consented to the filing of the accompanying brief.

Dated: June 28, 2013

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Benjamin S. Litman, certify that on this day, June 28, 2013, a copy of the foregoing motion, together with the accompanying brief of *amici curiae*, was served on the following person via electronic mail:

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